

1 Leslie R. Weatherhead
2 Nathan G. Smith
3 WITHERSPOON KELLEY
4 422 West Riverside Avenue, Suite 1100
5 Spokane, Washington 99201-0300
6 Phone: 509-624-5265
7 Counsel for Defendant,
8 BNSF Railway Company

9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 B & S HOLDINGS, LLC, a Washington
14 limited liability company,

15 Plaintiff,

16 vs.

Case No. 12-CV-387-TOR

DEFENDANT BNSF RAILWAY
COMPANY'S CROSS-MOTION
TO DISMISS

17 BNSF RAILWAY COMPANY, a
18 Delaware corporation, CITIBANK N.A., a
19 National Banking Association, successor
20 to THE FIRST NATIONAL BANK OF
21 THE CITY OF NEW YORK; and U.S.
22 BANK TRUST NATIONAL
23 ASSOCIATION, a National Banking
24 Association, successor to MORGAN
25 GUARANTY TRUST COMPANY OF
26 NEW YORK,

27 Defendants.
28

29 Defendants move this Court for an order dismissing the Complaint. This
30 motion is based upon Fed. R. Civ. P. 12(b)(1), and on the facts more fully set forth
31 in the Response to B&S Holdings, LLC's Motion to Remand and Memorandum in



1 Support of Cross-Motion to Dismiss and the Declaration of Leslie R. Weatherhead

2 Re: Motion to Dismiss filed herewith.

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4 Respectfully submitted this 19th day of July, 2012.

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6 **WITHERSPOON • KELLEY**

7
8 s/ Leslie R. Weatherhead

9 Leslie R. Weatherhead, WSBA No. 11207

10 Nathan G. Smith, WSBA No. 39699

11 *Attorneys for Defendant,*
12 *BNSF Railway Company*
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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July, 2012,

1. I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Donald L. Dimmitt: dond@jdsalaw.com, lisah@jdsalaw.com

2. I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants at the address listed below: **none.**
3. I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants at the address listed below: **none.**
4. I hereby certify that I caused to have overnighted the document to the following participants at the addresses listed below: **none.**

s/ Leslie R. Weatherhead
Leslie R. Weatherhead, WSBA No. 11207

